

Report to Monterey County Board of Supervisors

SUBJECT APPROVE RECOMMENDED RESPONSE TO THE 1996 GRAND JURY MID-YEAR FINAL REPORT	BOARD MEETING DATE 11-26-96 Consent	AGENDA NUMBER
DEPARTMENT County Administrative Office		

RECOMMENDATION

It is recommended that the Board of Supervisors approve the attached response to the 1996 Grand Jury Mid-Year Final Report to be filed with the Presiding Judge of the Superior Court.

SUMMARY

By law, the Board of Supervisors must file a response to the Grand Jury Final Report with the Presiding Judge of the Superior Court following the report's release.

Elected county officers are required to submit a response directly to the Presiding Judge of the Superior Court. Comments made by the elected officials (the County Sheriff, the District Attorney, and the Presiding Judge of the Superior Court) have been included in the Board's proposed response as attachments.

DISCUSSION

The proposed response addresses each specific recommendation directed to the Board of Supervisors.

OTHER AGENCY INVOLVEMENT

Members of the 1996 Grand Jury and appropriate department heads have been provided copies of the proposed Board of Supervisors' response.

FINANCING

Acceptance of the recommended Board response will have no direct financial impact on the General Fund.



ERNEST K. MORISHITA
County Administrative Officer
November 20, 1996
EKM:JPM:11/20/96
Attachments

MONTEREY COUNTY CIVIL GRAND JURY
1996 - MidYear Final Report
Recommendations

1. That a coordinated effort be undertaken to monitor compliance with and enforcement of Domestic Violence laws by local law enforcement agencies (Police Departments and Sheriff) and that the effort be under the direction and supervision of an independent department or advisory committee.

BOARD OF SUPERVISORS' RESPONSE:

On August 27, 1996, the Board of Supervisors established the Domestic Violence Coordinating Council. Among the responsibilities of the Council are the improvement in resolution of incidents of domestic violence, the conduct of reviews to improve response to domestic violence, and the development of policies to address domestic violence.

2. That the County, in cooperation with Monterey County Cities and private, non-profit Social Service organizations develop and conduct a coordinated publicly funded, public information program advising victims and potential victims of their rights, the assistance and resources available to them and the adverse consequences of trying to live with and survive Domestic Violence.

BOARD OF SUPERVISORS' RESPONSE:

As mentioned above, the Board of Supervisors has established the Domestic Violence Coordinating Council to coordinate efforts in the area of domestic violence. In addition, the Sheriff's Department has developed a system, as part of its public information effort, to disseminate information regarding all aspects of domestic violence on a scheduled basis.

3. That each Police Department in the County, and the Sheriff's office designate an officer, or officers to develop expertise in Domestic Violence issues.

BOARD OF SUPERVISORS' RESPONSE:

The Sheriff's Department is in the process of reorganizing the sexual assault domestic violence officer's position within the Investigations Division. It is anticipated that this position will have been filled by January, 1997.

5. That the District Attorney examine the need for a special Domestic Violence Prosecution Team and a Victim's Assistance Unit on the Monterey Peninsula, and if it is determined that there is no present need that the situation be monitored for future needs.

BOARD OF SUPERVISORS' RESPONSE:

A Victim's Assistance Unit of the District Attorney's Office has been in place on the Monterey Peninsula since the late 1970's.

Current planning is for a central domestic violence court to be established in Salinas. This court will handle cases from both Salinas and the Monterey Peninsula. The Board of Supervisors approved a deputy district attorney position and a secretary position for the District Attorney's Office during the FY96-97 budget hearings to help with implementation of this plan. In addition, during the FY96-97 budget hearings, the Board of Supervisors approved a position to serve as the Domestic Violence and Family Law Court Coordinator in the Superior Court budget unit. The Superior Court is in the final stages of the recruitment process for this position.

The Board of Supervisors will continue to monitor implementation of this plan.

8. The Board of Supervisors, in cooperation with City Councils should consider forming a permanent Advisory Committee composed of residents from each city, and from unincorporated population centers, such as Chualar, Del Monte Forest and Carmel Valley. The goals and functions of such a committee should be:

- a. Monitoring compliance with Domestic Violence laws.
- b. Doing research on what other California communities are doing and recommending enactment of programs and efforts which have proven effective.
- c. Working with City Councils, the Board of Supervisors and their staff to ensure that compliance with and enforcement of Domestic Violence laws and the development of effective preventive and remedial programs.
- d. Seeking support and funding for effective efforts and programs from City Councils and the Board of Supervisors.
- e. Monitoring public information programs and recommending improvements.
- f. Working with the District Attorney and the Presiding Judge of the Superior Court to develop and implement effective policies and procedures for dealing with Domestic Violence cases.
- g. Working with public and private agencies to improve victim assistance and support programs.

h. Working with the Probation Department to assist in effective referrals of Domestic Violence offenders to rehabilitation programs and follow-up efforts.

i. Working with the Public Defender to assist in developing effective and constructive policies and approaches for dealing with Domestic Violence offenders.

j. Making annual reports to City Councils and the Board of Supervisors on the status of Domestic Violence in Monterey County, the preventive and remedial efforts by public and private agencies and the compliance with and enforcement of Domestic Violence laws by local law enforcement agencies.

BOARD OF SUPERVISORS' RESPONSE:

The Board of Supervisors, by means of Resolution 96-357, established the Domestic Violence Coordinating Council. The Council includes the following membership:

Representative from Superior Court
Representative from Municipal Court
District Attorney
Chief Probation Officer
Sheriff
Chief of Police
Representative from Womens' Crisis Center of Salinas
Representative from Shelter Plus, South County
Representative from Monterey Peninsula YWCA
Representative from the Monterey County Commission on the Status of Women
Representative from the Department of Social Services
Representative from the County Medical Society
Five At-Large Representatives Appointed by the Board of Supervisors

The Council is charged with the following responsibilities:

- "
- A. To improve coordination between agencies, departments and the courts for the benefit of victims of domestic violence and abuse.
 - B. To promote effective prevention, intervention and treatment techniques which will be developed based upon research and data collection.
 - C. To improve the response to domestic violence and abuse so as to reduce the incidents thereof.

D. The Council may, if necessary, establish procedures, conduct reviews, develop policies, and take all other actions necessary to further the Board objectives of responsiveness to domestic violence and related issues, subject to approval of the Board of Supervisors. "

9. The Monterey County Domestic Violence Task Force has hired an "Interim Coordinator" to assist in implementing a County wide coordinated program. The Task Force also intends "to review the need for a permanent Domestic Violence Response Program Coordinator" "charged with the responsibility of coordinating the efforts of the Task Force with all governmental and non-governmental entities which deal with Domestic Violence."

The Grand Jury further recommends that:

a. The job description and the goals to be achieved by the "Coordinator" be carefully defined with input from the public and private non-profit sector.

b. If a decision is made to hire a permanent Coordinator, the person hired should have proven administrative skills and management experience; but more importantly, have at least some knowledge, training and experience in dealing with Domestic Violence. This will ensure that there is empathy and insight into the issues and problems, and that the person understands the complexities of the issue.

c. The following issues be carefully analyzed and discussed with all constituents before a Coordinator is "assigned" to a County department:

(1) Who will define the role and responsibilities and functions of the Coordinator?

(2) Who will supervise and oversee the function?

(3) If the Coordinator is placed under the District Attorney or the Superior Court, is there a potential incompatibility of roles, relationships and responsibilities, i.e., does the Coordinator need independence and objectivity in order to effectively "coordinate" the "effort"?

d. That the Task Force consider expanding its membership to include a business executive, the Public Defender, a member of the Clergy, a victim, a health-care provider, and a rehabilitated Domestic Violence perpetrator.

- e. Unless elected officials and Department heads, who are members of the Task Force attend the meetings and participate, their lack of personal involvement will deliver the message to their departments that they are not committed to this effort.

BOARD OF SUPERVISORS' RESPONSE:

The issues surrounding establishment of a permanent Domestic Violence Response Program Coordinator will be addressed by the new Domestic Violence Coordinating Council. Any recommendations in this area will be brought back to the Board of Supervisors for further action.

MEMORANDUM _____ OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY

TO: Charles H. Page, Foreperson DATE: 09/16/96
Monterey County Civil Grand Jury

FROM: Dean D. Flippo
District Attorney

SUBJECT: RESPONSE TO 1996 MID-YEAR FINAL REPORT

Enclosed please find the District Attorney's response to the 1996 Grand Jury Mid-Year Final Report addressing issues related to our department.

DDF:hh
Encl.

DOMESTIC VIOLENCE IN MONTEREY COUNTY

Recommendation 5 (page 14)

That the District Attorney examine the need for a special Domestic Violence Prosecution Team and a Victim's Assistance Unit on the Monterey Peninsula, and if it is determined that there is no present need that the situation be monitored for future needs.

RESPONSE: Upon recognizing the need for specialized prosecution regarding domestic violence cases, the District Attorney sought funding in order to establish a specially trained domestic violence prosecution unit. Application was made to the Department of Justice in October of 1994 for funding to support the formation of the unit. In February 1995 the District Attorney's Spousal Abuser Prosecution Program (SAPP) was implemented in Salinas. The intent was to provide a specially trained prosecutor, investigator, and secretary to deal, from beginning to end, with all domestic violence cases originating in Monterey County. It became quite evident that the unit could not process all the domestic violence cases originating just in Salinas. Faced with this realization the District Attorney, utilizing temporary funds, hired a temporary attorney to assist in the prosecution of the Salinas cases. A secretary was transferred from the Consumer Fraud/Environmental Protection Unit to SAPP to deal with the volume of cases. This five person unit has been able to successfully review, investigate, and prosecute domestic violence cases originating only in Salinas.

It was, however, abundantly clear that we could not provide the same degree of attention to cases arising in Monterey and South County. Optimally, domestic violence units should only deal with domestic violence cases and not other types of criminal matters. Because additional personnel was not available, the District Attorney instituted in-house training for Monterey and South County staff regarding the processing of domestic violence cases. All current research clearly shows that there is a distinct need for specialized domestic violence prosecution teams. The issues faced in Monterey County is how to provide specialized prosecution for cases arising from Monterey and South County, given existing resources.

The following are some possible options. The over 600 domestic violence police calls during 1995 on the Monterey Peninsula would justify the full-time commitment of one deputy district attorney, one investigator, and one secretary. Our victim/assistance unit, which has been in place in Monterey since the late seventies, would continue to provide assistance for domestic violence victims. The over 280 domestic violence police calls arising in South County would warrant the additional commitment of a deputy district attorney, investigator, and secretary all at half-time. These positions would be in addition to current existing staff who would continue to process all other criminal matters.

Recognizing that if the Board of Supervisors cannot approve these additional positions, then a possible way to achieve the desired concentrated attention to domestic violence cases would be to establish a centralized domestic violence court located in Salinas. Appearing in one court allows the District Attorney to maximize prosecutorial resources, rather than diffuse them by being required to appear in many courts throughout the County.

As a member of the Domestic Violence Task Force, I was informed that the Superior Court and Municipal Court were considering the creation of a domestic violence court in Salinas. Acting on that I requested during the recent budget hearings, approval for the permanent position of a deputy district attorney, a second permanent investigator, and a second permanent secretary. At the conclusion of the budget hearings the Board of Supervisors approved the addition of the permanent secretary based on a six month funding cycle. Additionally, the Board approved the addition of a deputy district attorney based on a one year funding source from Citizens Option for Public Safety (COPS).

It now appears that a central domestic violence court will be established in Salinas, but will handle domestic violence cases only from the Monterey Peninsula and Salinas. A separate domestic violence court will operate in King City which will require the currently assigned deputy district attorney to handle the regular criminal caseload as well as domestic violence cases. We will attempt to ensure, as much as possible, consistent filing and vertical prosecution of the South County cases. For domestic violence cases originating on the Monterey Peninsula, we will be filing all cases in Salinas.

It is the District Attorney's hope that monies will be made available from the General Fund to eventually fund the requested positions and any additional positions that may be justified because of increasing domestic violence workload. We will continue to monitor the progress in establishing the centralized domestic violence court, and will continue to seek support for the addition of additional members to our staff who will be dedicated solely to the prosecution of domestic violence cases in all areas of the County. Our Victim Assistance Units in Monterey, Salinas, and South County will continue to support and assist victims of domestic violence.

The Superior Court

COUNTY OF MONTEREY

CHAMBERS OF
JOHN M. PHILLIPS

P.O. BOX 414
SALINAS, CA 93902
 1200 AGUAJITO ROAD
MONTEREY, CA 93940
(408) 755-5060

October 11, 1996

Charles Page, Foreman
1996 Monterey County Civil Grand Jury
P. O. Box 414
Salinas, California 93902

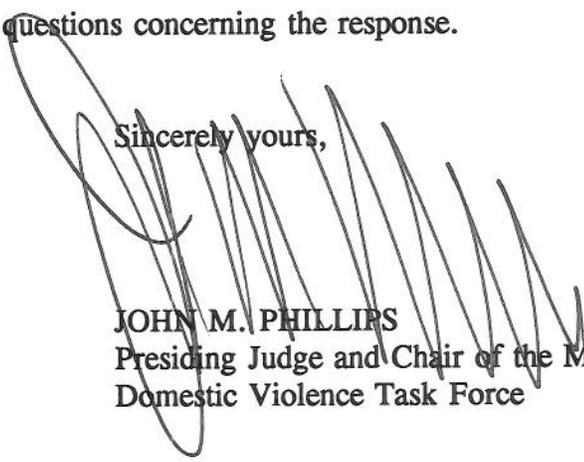
Dear Mr. Page:

The Monterey County Domestic Violence Task Force has completed its review of the Grand Jury's Mid-Year Final Report on domestic violence issues in Monterey County.

Enclosed please find the Task Force's response to Recommendation 9 as requested by the Grand Jury.

Please contact me if you have any questions concerning the response.

Sincerely yours,


JOHN M. PHILLIPS
Presiding Judge and Chair of the Monterey
Domestic Violence Task Force

JMP/aw

Enclosures:
Response to Recommendation 9
Recruitment Brochure
Copy of Board Resolution No. 96-357

October 11, 1996
Mid-Year Final Report - Domestic Violence

**DOMESTIC VIOLENCE TASK FORCE
RESPONSE TO RECOMMENDATION 9**

Expansion of Task Force Membership and Staff Support:

The Grand Jury's recommendation to expand the membership of the Task Force and provide direct staff support has been acted on as follows.

On August 27, 1996, at the recommendation of the Domestic Violence Task Force, the Monterey County Board of Supervisors adopted Resolution No. 96-357, establishing a Domestic Violence Coordinating Council. This new, seventeen member council replaces the Domestic Violence Task Force and will include five at-large representatives appointed by the Board of Supervisors. In accordance with the provisions of the Brown Act, the Council's meetings will be noticed public meetings. A copy of Resolution No. 96-357, which outlines the new Council's membership, charge and organization is attached.

Coordinator Position:

It is anticipated that the Grand Jury's recommendation regarding staff support to the Task Force will be addressed by the newly formed Council, at an early meeting, and that a request for a coordinator position will be presented to the Board of Supervisors for consideration in early 1997. Pending authorization and funding for a coordinator position dedicated to the work of the Domestic Violence Coordinating Council, direct staff support for the Council will be provided by the agencies represented on the Council.

The Grand Jury should also be aware that the Superior Court has received authorization to add a new Legal Research Attorney position to its budget to handle court related domestic violence issues.

As a part of the budget process for court funding, the job description and classification for this position was established and submitted to the County Board of Supervisors and the State Trial Court Budget Commission before the issuance of the Grand Jury's Mid-Year Final Report. The position is classified as Legal Research Attorney, with a working job title of Domestic Violence and Family Law Court Coordinator.

On July 30, 1996, during the 1996/97 County budget hearings, the coordinator position was authorized to be funded, effective January 1997, as a permanent, full time Superior Court position. The position will report to the Superior Court Administrator and the Superior Court Judge in charge of the domestic violence and family law calendars. The Coordinator will be headquartered in the court's Family Court Services office at the Salinas courthouse and will travel to court facilities at Monterey and King City as necessary.

The Court is in the final stages of the recruitment process for this position and plans to hire a licensed attorney with domestic violence and family law expertise. A copy of the recruitment brochure is attached.

Section II: Term of Office

- A. The term of office for at-large representatives shall be the same as the appointing Supervisor.
- B. An at-large representative may be reappointed for succeeding terms at the discretion of the appointing Supervisor.
- C. An at-large representative appointed to fill a vacancy that occurred other than by expiration of a term of office shall be appointed to fill the remaining portion of the unexpired term.
- D. If Supervisors do not complete their term, the new Supervisor may appoint the at-large members to complete the remaining portion of the unexpired term.

Section III: Organization

- A. **Officers:** The Council shall elect from its membership a chairperson, vice-chairperson, secretary and other officers as deemed necessary for the conduct of its business. The term of office for officers shall be one year with elections held in January of each year to take effect in January.
- B. **Quorum:** Fifty (50%) plus one of the seated Council members, in attendance, shall constitute a quorum, but in no case shall a legally constituted meeting be held without a quorum.
- C. **Minutes:** The Council shall keep minutes of its meetings. A copy of Council minutes shall be filed with the Clerk of the Board of Supervisors, upon approval of the Council.
- D. **Meetings:** The Council shall establish a regular meeting schedule, give public notice of the time and place of its meetings and all meetings shall be open to the public.
- E. The Council may appoint working groups for the purpose of carrying out the functions of the Council.

Section IV: Duties of Officers

- A. The Chairperson's responsibility shall be to preside at all meetings; if necessary, call for emergency meetings or, at the direction of a majority of a quorum of the Council, call for emergency meetings; sign correspondence; make or delegate responsibility for periodic reports to be given to the Board of Supervisors when requested; disseminate all correspondence to or from the

Council to all Council members; ensure that all outgoing correspondence on behalf of the Council shall be approved by a majority of the quorum; and ensure that procedures for conducting meetings will be in accordance with Robert's Rules of Order.

B. The Vice-Chair shall serve in the absence of the Chairperson.

C. The Secretary shall keep attendance; record minutes; process correspondence; reserve meeting rooms; ensure proper public posting of meeting agenda; file minutes after approval with the Clerk of the Board; and any other duties that the Council assigns.

D. Any other duties as determined by the Council will have their duties defined by the Council.

Section V: Compensation

A. Members of the Council shall serve without compensation and shall not be eligible for travel and incidental expenses.

Section VI: Charge of the Council

The general purpose of the Council shall be as follows:

A. To improve coordination between agencies, departments and the courts for the benefit of victims of domestic violence and abuse.

B. To promote effective prevention, intervention and treatment techniques which will be developed based upon research and data collection.

C. To improve the response to domestic violence and abuse so as reduce the incidents thereof.

D. The Council may, if necessary, establish procedures, conduct reviews, develop policies, and take all other actions necessary to further the board objectives of responsiveness to domestic violence and related issues, subject to the approval of the board of supervisors.

Section VII: Staff Support to Council

A. Staff support shall be provided by agencies represented on the Domestic Violence Coordinating Council as mutually agreed.

Section VIII: Amendment of By-Laws

A. Amendment of these by-laws may be accomplished by a majority vote of the total membership.

PASSED AND ADOPTED on this 27th day of August,
1996, upon motion of Supervisor Pennycook,
seconded by Supervisor Perkins by
the following vote, to-wit:

Ayes: Supervisors Salinas, Pennycook, Perkins, Johnsen
and Karas.

Noes: None.

Absent: None.

I, ERNEST K. MORISHITA, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of the Board of Supervisors duly made and entered in the minutes thereof at page of Minute Book 69 on August 27, 1996.

ERNEST K. MORISHITA, Clerk of the Board
of Supervisors, County of Monterey,
State of California

By Nancy Rupersill
Deputy

Dated: August 27, 1996

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MEMORANDUM

Sheriff-Marshal-Coroner
Public Administrator's Department
County of Monterey

DATE: September 30, 1996
TO: The Honorable John M. Phillips
Presiding Judge
Superior Court
FROM: Sheriff Norman G. Hicks
SUBJECT: Response to 1996 Grand Jury Mid-Year Final Report

The 1996 Grand Jury has requested that the Sheriff's Department respond to recommendations 3 and 4a&b which includes page 13 and 14 of the 1996 Mid-Year Final Report.

The 1996 Grand Jury recommends:

3. That each police department in the county and the sheriff's department designate an officer or officers to develop expertise and domestic violence issues.

RESPONSE: The sheriff's department is in the process of reorganizing the sexual assault domestic violence officer's position within the Investigations Division. For some years, the department had this position but due to massive vacancies, it had not been filled. By January of 1997, this position will have been filled, the officer trained, and a more close working relationship established with all disciplines involving domestic violence along with other areas.

4 That:

- (a) Every police department and the sheriff's department make available to the public in a conspicuous place which is accessible 24 hours a day, every day, the information specified by Penal Code Section 13701.

RESPONSE: This has been accomplished at all three sheriff's stations and will be monitored by the domestic violence sexual assault investigator to make sure that we maintain the needed material and the exposure as recommended.

- (b) The availability of the information be publicized frequently in a variety of media designed to reach every segment of the community in order to insure that individuals who need assistance are aware that help is available and that such information can be obtained without having to explain the reason for obtaining the information or for whom it is needed.

RESPONSE: A system has been set in place that will allow our public information section to disseminate information on a regular scheduled basis that will meet the needs of the community.


Norman G. Hicks
Sheriff-Coroner

NGH:ea

CITY HALL
BOX CC
CARMEL-BY-THE-SEA, CALIFORNIA 93921

12 September 1996

Mr. Charles H. Page
Foreman
1996 Monterey County Civil
Grand Jury
P. O. Box 414
Salinas CA 93902

Dear Mr. Page:

The Monterey County Civil Grand Jury 1996 Mid-year Final Report on Domestic Violence has been received and was formally reviewed by the City Council of the City of Carmel-by-the-Sea at its meeting of 10 September. The City Council wishes to formally respond to specific recommendations of the Civil Grand Jury as follows:

Recommendation #1:

It is our understanding that the Monterey County Domestic Violence Coordinating Council will be made permanent by action of the Board of Supervisors. This diverse council should be well-suited to address this recommendation, and we fully support this action.

Recommendation #2:

This is another area that should be addressed by the Domestic Violence Coordinating Council.

Recommendation #3:

As was explained to the members of the Civil Grand Jury at the time they interviewed Carmel-by-the-Sea Chief of Police Donald Fuselier, this responsibility is shared among the Chief, the Lieutenant of Police, the Detective Sergeant and the Police Services Supervisor.

Recommendation #7:

This recommendation would also be appropriately addressed by the Domestic Violence Coordinating Council and by the full membership of the Monterey County Law Enforcement Officers' Association.

Mr. Charles H. Page
Monterey County Civil
Grand Jury
12 September 1996

Page 2.

Recommendation #8:

The Carmel-by-the-Sea City Council also fully supports the Monterey County Domestic Violence Coordinating Council in fulfilling this recommendation.

On behalf of the City Council of the City of Carmel-by-the-Sea, I extend thanks to the 1996 Monterey County Civil Grand Jury for its review of domestic violence issues within the County.

Very truly yours,



Ken White
Mayor

KW:sam

Enc.: Donald Fuselier's memorandum
on domestic violence dated
7/24/96 (with attachments)

c: Members of the City Council
City Administrator
Chief of Police

CITY OF CARMEL-BY-THE-SEA**POLICE DEPARTMENT**

Post Office Box 600, Carmel, California 93921

(408) 624-6403

TO: JERE A. KERSNAR, CITY ADMINISTRATOR

FROM: DONALD P. FUSELIER, CHIEF OF POLICE

DATE: JULY 24, 1996

SUBJECT: MONTEREY COUNTY CIVIL GRAND JURY REPORT
ON DOMESTIC VIOLENCE

I have just received and read the above listed report. Domestic violence is an issue that is of great importance to me both personally and professionally. I am keenly aware of its impact on society in general and the citizens and visitors to Carmel-by-the-Sea in particular. This is a subject with which I have developed a good deal of expertise as I teach classes on the police response to domestic violence in two police academies.

I found this report to be somewhat disappointing. It was, in my opinion, an oversimplified reaction to a very complex problem. Additionally, the report seems to indicate that jurisdictions with low per capita numbers of cases of domestic violence are under reporting, stating:

“Research conducted by the Grand Jury indicates that communities of similar size and make-up will experience a similar number of Domestic Violence incidents. Exhibit 2 lists each city in Monterey County and the unincorporated areas in order of population. The Exhibit also lists the number of Domestic Violence incidents for each 1,000 residents. There are remarkable variations in the number of incidents reported for each 1,000 residents. Unless there is a difference in the way Domestic Violence is defined and reported the variations in the number of reported incidents for each 1,000 residents is impossible to explain.”

This statement does not take into consideration the differences in demographics between communities including factors of age and the number of single individual households. When those factors are taken into consideration, the variations in the number of reported incidents for each 1,000 residents is not at all *“impossible to explain”*. The Carmel-by-the-Sea Police Department takes great pride in the fact that we completely, thoroughly and accurately report all cases of domestic violence in accordance with California state law and that those numbers are low. Because those numbers are low, variations of one or two cases can appear to have a much greater percentage impact.

CIVIL GRAND JURY REPORT

July 24, 1996

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Additionally, the Carmel-by-the-Sea Police Department does indeed have an active program for dealing with domestic violence issues. Our Department policy covers all aspects of the police response to domestic violence and is in full compliance with the laws of the State of California. Any deviation from this policy by any member of this Department would result in disciplinary action being taken. A copy of that policy was offered to the members of the Grand Jury. Officers of this Department have received a cumulative total of 166 hours of training in the police response to domestic violence in addition to the hours presented in California Peace Officer Standards and Training (P.O.S.T.) approved basic police academies and the required refresher P.O.S.T. training.

This report by the Civil Grand Jury ends with a series of recommendations for very specific governmental bodies. Those recommendations requiring responses by law enforcement agencies are:

- 3. That each Police Department in the County, and the Sheriff's Office designate an officer, or officers to develop expertise in Domestic Violence issues.**

As I explained to the two members of the Civil Grand Jury who interviewed me, I take the lead for this responsibility, followed by Lt. Uretsky then by Sgt. Poitras and Dianne Yeoman. Each of us reviews each and every reported case of domestic violence and each and every case has follow-up work done by Sgt. Poitras.

- 4. That;**

- a. Every Police Department and the Sheriff's Department make available to the public in a conspicuous place, which is accessible 24 hours a day, every day, the information specified by Penal Code section 13701.**

- b. That the availability of the information be publicized frequently in a variety of media, designed to reach every segment of the community, in order to ensure that individuals who need assistance are aware that help is available and that such information can be obtained without having to explain the reason for obtaining the information or for whom it is needed.**

CIVIL GRAND JURY REPORT

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Again, as I explained to two members of the Civil Grand Jury, the material attached to this memo is available to the general public in the lobby of the

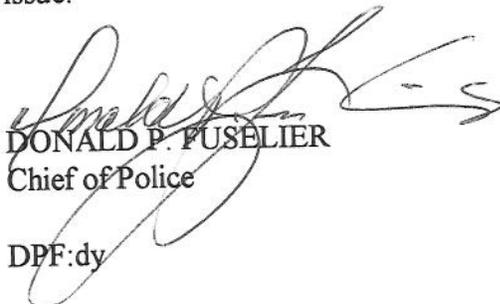
Police Department 24 hours a day. Additionally, it is carried in the field by every sworn police officer on the Department. In any case of domestic violence, it is given to the victim at the scene as required by law. A copy of this information was offered to the Grand Jury members.

The availability of this material is often mentioned as we make presentations to the public. Additional access to the media is a difficult matter but the Department would be open to any opportunities.

- 7. That a permanent, County wide, Police Officers' Domestic Violence Coordinating council be formed to deal with domestic violence issues. The Council should be composed of specially designated officers or, if no officer is designated, then the Police Chief or the Chief's designee or the Sheriff or his designee.**

The Department would actively participate and interact with such a council. It is our understanding that the newly formed version of the Monterey County Domestic Violence Coordinating Council will fulfill this role.

Domestic violence is a complex sociological issue with deadly results. It involves all of society as well as the police, the district attorney, the courts, the probation department, social service agencies and the medical profession. Anything that can be done to address this issue is most certainly worth the effort. It is important that those efforts be well thought out, however, and not be oversimplified "knee jerk" reactions to a very complex issue.



DONALD P. FUSELIER
Chief of Police

DPF:dy



CITY OF CARMEL-BY-THE-SEA POLICE DEPARTMENT

Post Office Box 600, Carmel, California 93921

(408) 624-6403

DOMESTIC VIOLENCE POLICY

It is the police of the Carmel-by-the-Sea Police Department to respond to any call of domestic violence and to enforce those laws that protect the victims. Violence in the home is criminal in nature and shall not be tolerated.

ARREST POLICY

- ◆ **FELONY ARRESTS:** A felony arrest may be made when the act causes physical injury to the victim.
- ◆ **MISDEMEANOR ARREST:** An officer may make an arrest when a misdemeanor (Including violations of court orders) has occurred in his presence. If the suspect is not present, a police report will be submitted to the District Attorney's Office for the filing of criminal charges and the issuance of an arrest warrant.
- ◆ **PRIVATE PERSON'S ARREST:** A victim has the right to make a private person's arrest when the crime has been committed outside of the officer's presence, in those cases not meeting felony arrest requirements.
- ◆ **DISPOSITION OF ARRESTEE:** Despite official restraint or arrest of the person alleged to have committed domestic violence, the restrained person may be released at any time on citation or bail.

REPORTING

- ◆ **POLICE REPORT:** A report will be written in all incidents of domestic violence and the victim will be provided with the case number of the report.
- ◆ **DISTRICT ATTORNEY:** As a victim of Domestic Violence, you may ask the District Attorney to file a criminal complaint.

CIVIL ACTION

You have the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earning, and other expenses for injuries sustained and damage to property, and any other related expenses incurred by you or any agency that shelters you.

COURT PROTECTIVE ORDERS

Court Protective Orders are also known as Temporary Restraining Orders (TRO'S) and as Telephonic Temporary Restraining Orders (TTRO'S). TRO'S must be issued by a judge of the court and are done so only during normal working hours. TTRO'S can be utilized by police officers on an emergency basis when the court is closed. A superior court judge must review this request prior to it becoming an official court order.

In addition, you have the right to contact the superior court and file a petition requesting any of below listed Court Protective Orders.

1. An order restraining the attacker from abusing you and other family members.
2. An order directing the attacker to leave the household.
3. An order preventing the attacker from entering the residence, school, business or your place of employment.
4. An order awarding you or the other parent custody of or visitation with a minor child or children.
5. An order restraining the attacker from molesting or interfering with minor children in your custody.
6. An order directing the party not granted custody to pay support of minor children, if that party has legal obligation to do so.
7. An order directing the defendant to make specified debit payments coming due while the order is in effect.
8. An order directing that either or both parties participate in counseling.

A complete and systematic record of all protection orders regarding domestic violence, supplied by the plaintiff, are kept on file within the Police Department. These orders must contain the terms and effective dates, as well as other pertinent information.

ARREST CRITERIA PROCEDURE FOR TRO VIOLATIONS

- ◆ When the subject of the restraining order has violated the restraining order in the presence of the officer and any one of the following conditions is met, an arrest can be made:
 1. The existence of the order and proof of service on the suspect has been verified by the officer.
 2. The complainant produces a valid copy of the order bearing a file stamp of a court and a proof of service on the subject.
 3. The existence of the order has been verified by the officer. no proof of service is required if the order reflects that the suspect was personally present in court when the order was made.
 4. The existence of the order has been verified, and there is proof that the suspect has previously been admonished by an officer

When the subject of the restraining order has violated the restraining order while not in the presence of the officer, and the above conditions have been met, a police report will be submitted to the District Attorney's Office for the filing of criminal charges and the issuance of an arrest warrant.

VICTIM ASSISTANCE

The following information is supplied to assist victims of domestic violence cases.

- ◆ **ACTS OF SEXUAL ASSAULT:** Sexual assault by a person who is known to you, including your spouse, is a crime. If you are a victim of such a sexual assault, contact the police department immediately. In addition, it is very important that you understand the importance of physical evidence in such cases. Therefore, please do not do anything that would destroy physical evidence such as showering or washing clothing or bed sheets.
- ◆ **MEDICAL ATTENTION:** The Police Department will assist in obtaining appropriate medical attention if a complainant claims injury whether visible or not.
- ◆ **TRANSPORTATION:** Officers will assist in making arrangements to transport victim to an alternate shelter if the victim expresses a concern for safety or the officer determines a need exists.
- ◆ **PROPERTY REMOVAL:** Officers will stand by for a reasonable amount of time on complainant's request while victim removes essential items of personal property.
- ◆ **LEGAL OPTIONS:** Officers will explain legal options, including your right to a private person's arrest process, and follow-up procedures as needed in an ensuing criminal procedure.

COMMUNITY RESOURCES AND STATE VICTIM ASSISTANCE PROGRAMS

- ◆ **MONTEREY COUNTY WOMEN AGAINST DOMESTIC VIOLENCE / 372-6300 or 1-800-992-2151:** All cases for legal aid are referred to this agency for processing prior to their assistance. They should be contacted first as they will assist in arranging shelter, counseling, ect.
- ◆ **YWCA / 649-0834:** They will assist in providing TRO's.
- ◆ **SHELTER PLUS / 422-2201 or 1-800-339-8228:** Temporary lodging in Salinas.
- ◆ **DISTRICT ATTORNEY'S OFFICE / 647-7770 or 647-7772:** For assistance with restraining orders or criminal procedures. Ask for the victim assistance program coordinator during regular working hours.
- ◆ **PENINSULA OUTREACH (HOPE) / 899-4673**
- ◆ **SOCIAL SERVICES / 373-8411**
- ◆ **SUICIDE PREVENTION / 649-8008**
- ◆ **COMMUNITY COUNSELING CENTER (24 hour family stress line) / 373-4773**
- ◆ **WOMENS CRISIS CENTER / 757-1001**
- ◆ **COMMUNITY HOSPITAL ON THE MONTEREY PENINSULA - MENTAL HEALTH CRISIS LINE / 624-5311**
- ◆ **RAPE CRISIS CENTER (24 hour crisis line) / 375-4357**
 - Monterey Administrative office: 373-3955
 - North County-Castroville: 633-2953
 - Santa Cruz (Womens Crisis support): 728-2295

COMMUNITY RESOURCES AND STATE VICTIM ASSISTANCE PROGRAMS (Cont.)

- ◆ **ACT PROGRAM (Adolescent Family Life & Cal-Learn Program): 755-5079**
Assists adolescents and teens to age 19 through Public Health Nurses, Social Workers and Community Service Aids to obtain medical care for themselves and their infants.

- ◆ **ADULT PROTECTIVE SERVICES, Monterey County Dept. Of Social Services:**
647-7890, 385-7400 or 755-8490
Provides assistance pr referral to dependant adults and elders to remedy abuse, neglect or exploitation when these persons may not be able to protect themselves.

- ◆ **FAMILY RESOURCE CENTER - SEASIDE: 394-4622**
Dedicated to prevention and treatment of child abuse or neglect.

3.200.10 Once a missing person has been located, that information shall be forwarded to the California Department of Justice.

3.205. RESPONSE TO DOMESTIC VIOLENCE.

3.205.05 ENFORCEMENT OF LAWS RELATING TO DOMESTIC VIOLENCE. Historically, law enforcement agencies have utilized a variety of dispute resolution methods as alternatives to arrest in domestic violence incidents. Based on public attitudes, lack of prosecution of domestic violence cases, and departmental priorities, a number of factors influence law enforcement officers to make no arrests in a majority of cases. It is the intent of the California legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior in the home is criminal behavior and will not be tolerated. The following factors, for example, should not be used to avoid making an arrest:

- . Marital status of suspect and victim.
- . Whether or not the suspect lives on the premises with the victim.
- . Existence or lack of a temporary restraining order (TRO).
- . Potential financial consequences of arrest.
- . Complainant's history or prior complaints.
- . Verbal assurances that violence will cease.
- . Complainant's emotional state.
- . Non-visible injuries.
- . Location of the incident (public or private).
- . Speculation that the complainant may not follow through with the prosecution or that the case may not result in a conviction.

3.205.10 FELONY ARREST. Make an arrest when there is reasonable cause to believe that a felony has occurred.

3.205.15 MISDEMEANOR ARREST. Make an arrest when there is reasonable cause to believe that a misdemeanor (including violation of court orders) has occurred in the officer's presence.

Officers considering releasing the suspect on a citation shall evaluate the likelihood of a continuing offense which is one of the statutory conditions under which a field release is not appropriate. Any one of the following may support the likelihood of a continuing offense:

- . Whether or not the suspect has a prior history of arrests or citations involving domestic violence.
- . Whether the suspect has previously violated, or is currently violating, valid temporary restraining orders.
- . Whether or not the suspect has a prior history of other assaultive behavior (e.g., arrest/convictions for battery or aggravated assaults.)
- . Statements taken from the victim that the suspect has a history of physical abuse against the victim.
- . Statements taken from the victim expressing fear of retaliation or further violence should the suspect be released.

3.205.20 PRIVATE PERSON'S ARREST (CITIZEN'S ARREST). The victim should be informed of the right to make a private person's arrest when a crime has been committed outside the officer's presence which does not meet the requirements for a felony arrest. Whenever possible, such discussion shall be held out of the presence of the suspect. A private person's arrest should be accepted. Officers shall not dissuade victims from making a lawful private person's arrest.

3.205.25 REPORTING.

- . Write a report in all incidents of domestic violence. Penal Code Section 13730 requires such

a report shall be identified on its face as a domestic violence incident and be retrievable.

- . Identify in the report whether or not weapons were involved. (Penal Code 13730(a).)
- . Provide the victim with the case number of the report, or if not immediately available, explain to the victim how the number may be obtained.

3.205.30 VERIFICATION OF RESTRAINING ORDERS. Whenever a complainant advises of the existence of a restraining order, the officer should ascertain:

- . Whether a restraining order is on file with the Department or the complainant has a copy of the restraining order in possession.
- . Whether the restraining order is still valid as to its duration/time.
- . Whether the proof of service or prior notice exists or that the suspect was in court when the order was made.
- . The terms of the restraining order.

3.205.35 ARREST CRITERIA AND ENFORCEMENT PROCEDURES FOR RESTRAINING ORDERS.

- . A violation of a restraining order is a misdemeanor under either Penal Code Section 273.6 or 166.4. Make an arrest when there is reasonable cause to believe the subject of the restraining order has violated the order in the presence of the officer and any one of the following conditions is met:
 - . The existence of the order and proof of service on the suspect has been verified by the officer.
 - . The complainant produces a valid copy of the order bearing a file stamp of a court and a proof of service on the subject.
 - . The existence of the order has been verified by the officer; no proof of service is required

if the order reflects that the suspect was personally present in court when the order was made.

- . The existence of the order has been verified, and there is proof that the suspect has previously been admonished by an officer.
- . When the officer verifies that a restraining order exists, but cannot verify proof of service or prior knowledge of order by suspect, the officer should:
 - . Inform the subject of the terms of the order.
 - . Admonish the subject of the order that the subject is now on notice and that a violation of the order will result in arrest. If the subject continues to violate the order after being advised of the terms, an arrest should be made.
 - . If the suspect complies after admonishment of the terms, the officer shall make a retrievable report, pursuant to Penal Code Sec. 13730(c), showing the suspect was admonished/advised of the terms of the order, the specific terms of the order suspect was advised of, the name of the admonishing officer, time and date. The department's copy of the restraining order shall be updated to reflect the admonishment information listed above.
- . In the event the suspect has left the scene of the incident, an investigation should be made to determine if a crime has been committed. Penal Code Sections 13703(c) and 13701(i) require that a retrievable report shall be made, and the complainant shall be advised of the follow-up criminal procedure and case number of the report.

3.205.40 ORDER NOT VERIFIABLE. When the victim is not in possession of the TRO, and/or in case of error, officers may not be able to confirm the order's validity.

- . Penal Code Section 13730(c) requires that an officer shall write a report, give the victim the police

report number, and direct the victim to contact the Department for follow-up information.

When an order is not verifiable through the verification procedures, officers should advise the victim of the right to make a private person's arrest for the appropriate violation.

3.205.45 TELEPHONIC TEMPORARY RESTRAINING ORDERS (TTRO).

The TTRO is designed for usage by the following groups of people:

- . Married.
- . Formerly married.
- . Related by blood or marriage.
- . Parents of a common child (including unborn children.)
- . Persons living together now or within the past six months, sharing a common living space (not necessarily a bedroom.)

The parties being protected are not restricted to the party making the application.

The TTRO is used in situations of domestic violence. All other means to resolve the situation should be utilized prior to obtaining a TTRO to include, but not limited to, the following:

- . Felony arrest under 273.5 PC, or a misdemeanor arrest when appropriate.
- . If, after an arrest, the officer has reasonable belief that the suspect will bail out of custody and commit further violence, the officer should request additional bail from a Municipal Court judge.
- . When an arrest is inappropriate, a reasonable effort should be made to obtain an agreement between the parties to voluntarily separate until the next court day. The officer should

be reasonably satisfied that the agreement will be respected by the parties before deciding not to request a TTRO.

A reasonable effort should be made to encourage and facilitate the utilization of local shelters for the temporary and emergency housing of the victim until the next court day.

If all these efforts and others are exhausted, the officer should utilize the following mandatory procedures:

The on-scene officer should contact the on-duty watch commander to advise him of the situation and the need for a TTRO.

Upon watch commander approval, the desk officer shall be contacted and shall contact County Communications. County Communications will be asked to call the on-duty deputy district attorney (DDA) regarding a request for a TTRO.

Advise the deputy district attorney (DDA) of the situation and the need for a TTRO.

Upon approval of the DDA, the desk officer shall be recontacted and requested to contact County Communications, asking that the on-duty Superior Court judge be contacted.

Prior to talking with the Superior Court judge, the officer must have the application form completed and signed. The completed form should be read to the protective party, including the "under-penalty-of-perjury" statement.

When contact is made with the Superior Court judge, the judge will require the following information:

Watch commander and DDA names.

If the application is signed.

What the application states.

Are there any existing court orders issued anywhere? If so, copies of these orders will be needed.

Is there a request for a "kick-out" order?

Whose name is on the lease, rental agreement, deed?

Why was an arrest not utilized to solve the problem?

If the Superior Court judge believes a TTRO is warranted, the requesting officer will be instructed to complete the Emergency Protective Order. The judge will dictate the information required for the order.

Upon completion of the order, the officer shall give a copy (pink) to the protective party of both the application and order. The order will be effective until the following court day at 1700 hours. The protected party shall be advised to contact the court prior to that time and file another restraining order.

The protective party will be given hand-out material regarding victim-assistance information.

The restrained party shall be served either with both copies of the application and order (yellow), or verbally, stating the prohibitions of the order whenever practical.

The issuing officer must retain the original copies of the application and order during the remainder of the shift.

3.205.50 ARREST FOR VIOLATION OF THE TTRO (273.6 PC).

The restrained party is not to be cited and released; a physical arrest is required.

- . Bail must be posted, and if the situation warrants it, a Municipal Court judge should be contacted to raise the bail amount.
- . If a report is to be filed with the District Attorney's Office, a copy shall be made of the application and order. The original copies must be filed with the Court Clerk no later than 1200 hours of the following day, if possible. The goldenrod copy is to be filed with the other TRO's in the records room.
- . **Liabilities.** The officer shall not make any promises to the protective party regarding the:
 - . Issuance of the order,
 - . Service of the order, or
 - . That the order will prevent violence.

This TTRO is a discretionary act by the officer or Department. It is not mandatory, however, the officer shall seek a TTRO if there is reason to believe that violence will continue and all other methods of resolution have been exhausted.

3.205.55 **TENANCY.** Request a person who is not in lawful possession of the premises to leave the premises when; (1) the complainant is in lawful possession of said premises, and (2) the complainant has requested that the person leave the premises.

- . The suspect is to be arrested under Penal Code Section 602.5 if he does not leave upon request.
- . The officer should refer the complainant to a temporary restraining order or other appropriate civil remedy if the complainant requesting removal cannot show proof of lawful possession. "Lawful possession" of the premises is shown by a rental agreement, cancelled rent check, lease, grant deed, verification from landlord, court order, or other document showing person(s) to be removed.

3.205.60 VICTIM ASSISTANCE.

The officer should assist in obtaining appropriate medical attention if a complainant claims injury, whether visible or not.

The victim should be assisted in making arrangements to transport him to an alternate shelter if the victim expresses a concern for safety, or the officer determines a need exists.

The officer should stand by for a reasonable amount of time when a complainant requests police assistance while removing essential items of personal property.

The victim should have explanations and written information supplied him regarding legal options available including civil action, the private person's arrest process, temporary restraining orders, and in cases of arrest, follow-up procedures and ensuing criminal proceedings.

The victim should be provided with written information and advice about available community resources and the state victim assistance program

3.205.65 OFFICER SAFETY. Reasonable care for the safety of officers and parties involved shall be exercised, and no provision of this guideline shall supersede that responsibility.

3.210. VICTIMS OF VIOLENT-CRIME PROGRAM.

3.210.05 POLICY. Department personnel, as mandated by state law, shall participate in the State "Victims of Violent Crime Program" by informing qualified persons of the availability and provisions of the program.

3.210.10 BACKGROUND. (Refer to Sections 13968(c), 649.14 and 649.15 of the Government Code.) The State of California has appropriated funds for compensating "Victims of Violent Crimes" and "Good Samaritans," who render assistance in crimes and rescue for their unreimbursed medical expenses, wage loss, or other expenses incurred as a result of injury, including benefits to survivors of those killed. The claims are adjudicated by the State

KING CITY POLICE DEPARTMENT

Tom Slawson
Chief of Police

September 8, 1996

Charles H. Page, Foreman
Monterey County Grand Jury
P.O. Box 414
Salinas, CA 93902

RE: Response to 1995 Grand Jury Final Report

Dear Mr. Page,

This information is available to you and your staff as per your request regarding the 1995 Grand Jury Final Report. As you are aware, the King City Police Department already has a reputable domestic violence program in place, and was commended by the Grand Jury in several areas regarding its domestic violence policy and reporting procedures.

As per recommendation #3, Sergeant Bruce Miller is the King City Police Department's domestic violence coordinator.

As per recommendation #7, the King City Police Department will participate in the county-wide Police Officer's Domestic Violence Coordinating Council, and Sergeant Bruce Miller is the designated member who will represent the department.

I hope this information assists you in this matter. Please don't hesitate to call if you need anything further.

Sincerely,



Tom Slawson
Chief of Police

CITY COUNCIL

SANDRA L. (SANDY) KOFFMAN
MAYOR

ROBERT E. (BOB) DAVIS
VERN YADON
TERRENCE B. ZITO
STEVE HONEGGER
ROBERT HUITT
JAMES W. (JIM) COSTELLO



CITY OF PACIFIC GROVE

300 FOREST AVENUE
PACIFIC GROVE, CALIFORNIA 93950
TELEPHONE (408) 648-3100
FAX (408) 375-9863

September 23, 1996

MICHAEL W. HUSE
CITY MANAGER
PETER WOODRUFF
ADMIN. SERVICES DIRECTOR
CITY CLERK AND TREASURER
GEORGE C. THACHER
CITY ATTORNEY

The Honorable John M. Phillips
Presiding Judge
Monterey County Superior Court
240 Church Street
Salinas, California 93901

Dear Judge Phillips:

I am pleased, on behalf of the Pacific Grove City Council, to transmit the following responses to recommendations contained in the 1996 Mid-Year Final Report of the Monterey County Grand Jury. The focus of this document was Domestic Violence in Monterey County.

The recommendations begin on page 13 of the Mid-Year Report and my responses pertain to items 1, 2, 3, 7, & 8.

Recommendation No. 1. The City of Pacific Grove supports a coordinated effort to monitor compliance with and enforcement of Domestic Violence laws. In fact, there is already a document entitled, "A Coordinated Community Response to Domestic Violence" that has served our community quite well and effectively. To the extent that additional cooperation is required or desired, the City stands ready to work in unison with other agencies to achieve a responsive and effective program.

Recommendation No. 2. The City of Pacific Grove agrees that a coordinated public information program informing victims and potential victims of their rights would be extremely beneficial. In this regard, the Pacific Grove Police Department has such information on display in the lobby of the police station. In addition to addressing victim's rights, the information also describes what assistance and resources are available to the victim. Again, the City is ready to cooperate with other agencies to ensure that public information is consistent, accurate, and plentiful.

Recommendation No. 3. The City of Pacific Grove Police Department has assigned the task of developing an expertise in Domestic Violence issues to the Support Services Lieutenant. This is currently Lt. Carl Miller. Lt. Miller has committed himself to this assignment by receiving specialized training, reviewing domestic violence and

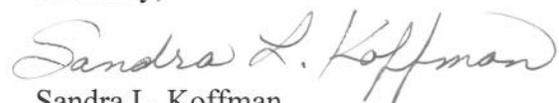
disturbance related case reports, serving as a contact person for victims of domestic violence, and represent the Department on any county-wide coordinating council.

Recommendation No. 7. The City of Pacific Grove commits to be a willing and active member of a county-wide "Police Officers' Domestic Violence Coordinating Council" as described in the Grand Jury Report. Again, Lt. Miller will be the City's representative and will be guided by the goals and functions referenced in the Report.

Recommendation No. 8. The suggestion that a permanent advisory committee, composed of residents from each city and unincorporated population centers, be formed is worthy of further review. The only concern of the City of Pacific Grove is duplication of effort as the Domestic Violence Coordinating Council will be doing many of the things the proposed citizen committee would do. While the City of Pacific Grove realizes that the make-up of the Advisory Committee will bring a different perspective to the issue, there is still the concern that efficiency of effort will suffer. As an alternative, perhaps the Domestic Violence Coordinating Council could be expanded to include "civilian" members.

Again, on behalf of the Pacific Grove City Council I wish to thank the Grand Jury for its insightful and articulate assessment of this important issue. While it is clear that a concerted, regional endeavor is underway to address domestic violence, there is still work to be done and the recommendations put forth by the Grand Jury lay a solid foundation for that continuing effort.

Sincerely,



Sandra L. Koffman
Mayor

cc: Pacific Grove City Council
City Manager
City Attorney
Charles H. Page, Foreperson, 1996 Monterey County Civil Grand Jury



PACIFIC GROVE POLICE DEPARTMENT

580 PINE AVENUE
PACIFIC GROVE, CALIFORNIA 93950

September 13, 1996

The Honorable John Phillips
Monterey County Superior Court
P.O. Box 1819
Salinas, CA 93902

RE: Required Response to 1996 Mid-Year Final Report

Dear Sir:

Following are my responses to the Grand Jury recommendations three, four and seven in their 1996 mid-year final report.

Recommendation #3:

The officer assigned to this task will be the Support Services Lieutenant, currently Lt. Carl Miller. Aside from receiving specialized training himself, he will:

1. Review all domestic violence and disturbance related case reports.
2. Ensure consistency of reporting and law compliance.
3. Be a contact person, so victims of domestic violence may make inquiries or ask for special assistance.
4. Represent the department on the county-wide coordinating council as recommended in recommendation #7.
5. Oversee training on law changes and coordinate appropriate training for all department personnel.

Recommendation #4:

a. The information required by 13701 P.C. will be maintained in a clearly marked area of the department's foyer. The information has been available at the front desk for some time, however, more training is being given to desk personnel so they will be better able to assist victims of domestic violence in obtaining necessary assistance.

b. Lt. Miller is in the process of putting together a Domestic Violence Handbook, which will include our policy statement, personal safety information to victims, and referral information. When this is completed he plans to approach the media via press release, advising of its availability.

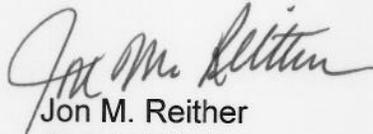
Recommendation #7:

a. thru l. Lt. Carl Miller will be our representative on the Monterey County Domestic Violence Council and he will make every effort to carry out all of the Grand Jury recommendations, to the best of his ability.

I want to thank the Grand Jury for their review of this very important issue. While I feel Monterey County law enforcement, from the street officer all the way to your position as Presiding Judge of the Superior Court, has been moving in the direction of a more coordinated effort in dealing with domestic violence, a look from another viewpoint can usually give more insight. I appreciate their recommendations.

This concludes my response to the Grand Jury recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon M. Reither".

Jon M. Reither
Chief of Police

cc: Foreman, Monterey County Civil Grand Jury
City Manager
City Attorney

City of Marina

DEPARTMENT OF PUBLIC SAFETY

211 HILLCREST AVENUE
MARINA, CA 93933
TELEPHONE (408) 384-5225



October 21, 1996

Mr. Charles M. Page, Foreman
Monterey County Grand Jury
Monterey County Courthouse
P.O. Box 414
Salinas, Ca. 93902

Dear Mr. Page:

The following response includes information relative to the recommendations made in the 1996 Grand Jury Mid-Year Final Report for the Marina City Council and the Department of Public Safety.

Recommendation:

1 - That a coordinated effort be undertaken to monitor compliance with and enforcement of Domestic Violence laws by local law enforcement agencies (police departments and sheriff) and that the effort be under the direction and supervision of an independent department or advisory committee.

Response - The Monterey County Board of Supervisors has established a Domestic Violence Council. This Council will focus their efforts on many of the areas recommended by the Grand Jury including coordination and cooperation between law enforcement, prosecution, courts and probation.

2 - That the County, in cooperation with Monterey County cities and private, non-profit Social Service organizations develop and conduct a coordinated publicly funded, public information program advising victims and potential victims of their rights, the assistance and resources available to them and the adverse consequences of trying to live with and survive Domestic Violence.

Response - Education is an objective of the Domestic Violence Council and a committee of the Council is focusing on the recommendations.

3. - That each Police Department in the County, and the Sheriff's Office designate an officer, or officers to develop expertise in Domestic Violence issues.

Response - The ability to fund these positions is the critical issue in this recommendation and each police agency must look to the priorities of their communities and decide if funding is available. In Marina, we have assigned our Community Services Specialist to provide follow-up and support for victims of Domestic Violence. We are also in the process of training all officers in Domestic Violence issues and have started this training with our supervisory personnel. The training is being provided by the Y.W.C.A., the Women's Crisis Center, the District Attorney's Office, the Probation Department and the Superior Court.

7. - That a permanent, county wide, Police Officers' Domestic Violence Coordinating Council be formed to deal with Domestic Violence issues. The Council should be composed of specially designated officers or, if no officer is designated, then the Police Chief or the Chief's designee or the Sheriff or his designee. The goals and function of such Council would be:

- a. Monitoring compliance with and assuring effective enforcement of Domestic Violence laws.
- b. Developing and operating continuing education programs for local law enforcement personnel on Domestic Violence issues.
- c. Identifying problems and unmet needs and developing solutions.
- d. Researching successful programs in other California communities as a means of improving local programs.
- e. Providing routine reports to City Councils and the Board of Supervisors on Domestic Violence, resources needed, and remedial efforts in place or needed.
- f. Encouraging other City and County departments and City Councils and the Board of Supervisors, to undertake continuing efforts to deal with Domestic Violence and seek a better understanding of the problems and cost of compliance with and enforcement of Domestic Violence laws.
- g. Working with the District Attorney and special Domestic Violence units to coordinate prosecution of Domestic Violence crime and uniform enforcement of restraining orders.
- h. Working with the Presiding Judge of the Superior Court to improve the judicial administration and handling of Domestic Violence cases.
- i. Working with public and private Social Service agencies to improve compliance and enforcement, to develop better victim assistance programs, and develop more effective preventive and remedial efforts.

- j. Conducting ongoing reviews of protocols with the goal of adapting the common protocol to changing conditions and circumstances, and improving its effectiveness.
- k. Performing ongoing reviews of Domestic Violence training programs and developing suggestions for more effective training.
- l. Reviewing and updating the technical Assistance Report and Recommendations and encouraging each department to adopt the procedures and methods recommended in the report, as revised and updated.

Response - The Monterey County Chief Law Enforcement Officer's Association is represented on the Domestic Violence Council. The responsibility of the representative is to provide input to the Council and to keep members of the Chief's Association informed as to the activities of the Domestic Violence Council. It is the intention of the Chief's Association to insure that there is compliance with all of the issues surrounding the problem of domestic violence listed by the Grand Jury in sections a. through l. of this recommendation. Members of the Chief's Association recently completed a four hour block of instruction on Domestic Violence. This training was provided by the District Attorney's Office, the Women's Crisis Center, the Monterey County Probation Department and the Presiding Judge of the Superior Court. We have worked closely with all of these organizations and individuals in order to improve the coordinated response to Domestic Violence needed to adequately address this problem.

The City Council for the City of Marina and the Marina Department of Public Safety concur with the recommendations of the Grand Jury and will continue to work with the Chief's Association and the Domestic Violence Council to carry out the spirit of those recommendations.

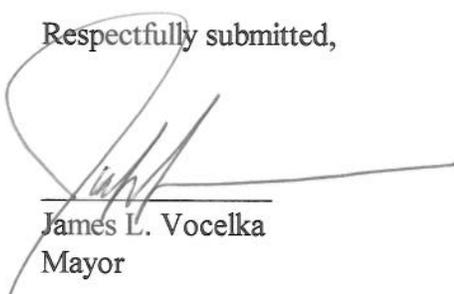
8. - The Board of Supervisors, in cooperation with City Councils should consider forming a permanent Advisory Committee composed of residents from each city, and from unincorporated population centers, such as Chualar, Del Monte Forest and Carmel Valley. The goals and functions of such a committee should be:

- a. Monitoring compliance with Domestic Violence laws.
- b. Doing research on what other California communities are doing and recommending enactment of programs and efforts which have proven effective.
- c. Working with City Councils, the Board of Supervisors and their staff to ensure compliance with and enforcement of Domestic Violence laws and the development of effective preventive and remedial programs.
- d. Seeking support and funding for effective efforts and programs from City Councils and the Board of Supervisors.
- e. Monitoring public information programs and recommending improvements.

- f. Working with the District Attorney and the Presiding Judge of the Superior Court to develop and implement effective policies and procedures for dealing with Domestic Violence cases.
- g. Working with public and private agencies to improve victim assistance and support programs.
- h. Working with the Probation Department to assist in effective referrals of Domestic Violence offenders to rehabilitation programs and follow-up efforts.
- i. Working with the Public Defender to assist in developing effective and constructive policies and approaches for dealing with Domestic Violence offenders.
- j. Making annual reports to City Councils and the Board of Supervisors on the status of Domestic Violence in Monterey County, the preventive and remedial efforts by public and private agencies and the compliance with and enforcement of Domestic Violence laws by local law enforcement agencies.

Response - A permanent Council on Domestic Violence has been established in Monterey County and additional councils or committees working on essentially the same subject would be duplicative and inefficient. It is expected that the Domestic Violence Council recently established by the Board of Supervisors from the existing Domestic Violence Committee, will be addressing most if not all of the issues brought up by the Grand Jury. We believe this is a reasonable approach to the problem and support the decision of the Monterey County Board of Supervisors.

Respectfully submitted,



James L. Vocelka
Mayor



Roger Williams
Director of Public Safety



August 15, 1996

The Honorable John M. Phillips
Presiding Judge, Monterey County Superior Court
240 Church Street
Salinas, CA 93901

Dear Judge Phillips:

Please find enclosed my response to the recommendations made in the Monterey County Civil Grand Jury 1996 Mid-Year Final Report on the subject of Domestic Violence in Monterey County.

I believe the Grand Jury has made a good start on studying the complex issue of domestic violence in our county.

As always, I am available for any questions you or members of the Grand Jury may have regarding my responses.

Sincerely,

F.D. Sanderson
Police Chief

FDS/gr
Enclosure

cc: Fred Meurer, City Manager

MONTEREY POLICE DEPARTMENT
RESPONSE TO 1996 GRAND JURY
RECOMMENDATIONS ON

DOMESTIC VIOLENCE IN MONTEREY COUNTY

by

Floyd D. Sanderson, Chief
Monterey Police Department

1. The 1996 Grand Jury recommends:

RECOMMENDATION # 3: That each Police Department in the County, and the Sheriff's Office designate an officer, or officers to develop expertise on Domestic Violence issues.

RESPONSE: The Monterey Police Department has long had a person designated as the source of expertise in Domestic Violence. That person is Lieutenant Jim Roseman and has regularly interfaced with both public and private organizations to help the Monterey Police Department develop and maintain appropriate responses to the needs of victims of Domestic Violence. He is the person singularly responsible for insuring our policies, training and publications are current.

Recently, a second Police Lieutenant has developed expertise in this subject and was responsible for insuring our handling of temporary restraining orders was working properly. He was instrumental in producing a written procedure for our handling of TRO's and the proper filing and computer entry of those court orders. He is developing additional expertise in this area and will augment Lt. Roseman's effort.

RECOMMENDATION # 4: That: a. Every Police Department and the Sheriff's Department make available to the public in a conspicuous place, which is accessible 24 hours a day, every day, the information specified by Penal Code Section 13701.

b. That the availability of the information be publicized frequently in a variety of media, designated to reach every segment of the community, in order to ensure the individuals who need assistance are aware that help is available and that such information can be obtained without having to explain the reasons for obtaining the information or for whom it is needed.

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RESPONSE: The Monterey Police Department has been in compliance with Penal Code Section 13701 since it first became law more than 10 years ago. In fact, we have updated our written directive (85-04) on this subject several times; most recently in July 1996 to comply with recent changes in the law. I am somewhat surprised that Grand Jury members who visited me during their review of the subject, did not recall that I had given them copies of our directive and of our revised handbook entitled "Information to our citizens regarding Domestic Violence" (copies enclosed). I recall this because I had to give them a draft copy of the directive because it had not yet been formally approved as revised. I am dismayed that this fact was overlooked in making this report thereby suggesting Monterey Police had not been in compliance with the law.

We in the Monterey Police Department take our responsibility for domestic violence responses quite seriously. We have always been in compliance with the law reach out to the many agencies serving our city to insure we are doing what we can to effectively deal with this issue. Our officers provide each victim of domestic violence with a copy of the "Information to our citizens regarding Domestic Violence". We believe that victims are the ones most in need of the information provided in the pamphlet. While it is "available" to anyone, our directive requires our officers to hand deliver the information pamphlet to a victim.

I have to assume that when Grand Jury members made a routine walk-in inquiry of my staff, they may have been given information that led them to conclude Monterey Police was not in compliance with the law. Since the process of the Civil Grand Jury is based on confidentiality (as it should be) I do not know what questions were asked of my staff, nor do I know what the members were told. . Our pamphlet (copy previously referenced) "Information to our citizens regarding Domestic Violence" has been in publication for many years. Depending on the question asked by the Grand Jury member, this pamphlet would have been immediately recognized by my staff as containing the information requested. I don't know why the confusion occurred, but we have reminded our staff that these pamphlets are available to the public and are now in a conspicuous place within our lobby.

In sum, I believe the Monterey Police Department is fully in compliance with both the law and the recommendations made by the Grand Jury.

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RECOMMENDATION # 7: *That a permanent, County wide, Police Officer's Domestic Violence Coordinating Council be formed to deal with Domestic Violence issues. The Council should be composed of specially designated officers or, if no officer is designated, then the Police Chief or the Chief's designee or the Sheriff or his designee. The goals and functions of such Council would be: (12 goals and functions are listed in the recommendation)*

RESPONSE: The recommendation to use a coordinating committee to deal with Domestic Violence is an excellent one! In fact, I believe the structure for such a group exists. The Monterey County Chief Law Enforcement Officers Association could form a permanent sub-committee of its members and identify that sub-committee as the *Domestic Violence Coordinating Council* and begin working on the goals set forth in the Grand Jury recommendation. Additionally, the sub-committee could coordinate its work with the Superior Court formed Domestic Violence Task Force thereby networking all the resources that are currently working on this issue.

SUMMARY

Given the limited scope the inquiry, I believe the Grand Jury has done a commendable job in providing some insights into the serious issue of domestic violence in Monterey County. While the primary focus of this report is the effectiveness of the police in addressing domestic violence, the report fails to clearly articulate the fact that "police" are just ***one part*** of the criminal justice continuum charged with the responsibility of dealing with the criminality of domestic violence. The other two equal partners in this endeavor are the ***prosecution*** and the ***courts***. I submit that further study on this subject that places equal emphasis on all three levels of the criminal justice system would provide a more complete and balanced picture of how domestic violence is addressed in Monterey County.

Respectfully,

Floyd D. Sanderson
Police Chief
City of Monterey

July 1996

c Fred Meurer, City Manager

MONTEREY POLICE DEPARTMENT - DIRECTIVE

Effective: July 1, 1996
Affected Staff: All Personnel
Originator: Police Chief
Subject: Response to Domestic Violence

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Penal Code Section 13700 specifies the following definitions which are included for clear understanding of these guidelines:

"Abuse": intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself/herself or another.

"Domestic Violence": abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had or is having a child or has had a dating or engagement relationship. For purposes of this subdivision, **"Cohabitant"** means two unrelated adult persons living together for a substantial period of time, resulting in some permanence of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship. (Amended by Stats. 1993, c. 1230 [A.B.2250])

"Officer": any officer or employee of a local police department or sheriff's office, and any peace officer of the California Highway Patrol, the California State Police, the Department of Parks and Recreation, the University of California Police Department, or the California State University and College Police Departments, as defined in Section 830.2, or a Housing Authority Patrol Officer, as defined in subdivision (d) or Section 830.31.

"Victim": a person who is a victim of domestic violence.

"Family Violence": as defined in Penal Code Section 12028.5, has the same meaning as "domestic violence" and also includes any abuse perpetrated against a family or household member.

"Dual Arrest": an arrest of more than one party involved in an incident of domestic violence.

I. ENFORCEMENT OF LAWS

Guideline 1 - ENFORCE LAWS RELATING TO DOMESTIC VIOLENCE.

Historically, law enforcement agencies have utilized a variety of dispute resolution methods as alternatives to arrest in domestic violence incidents. Based on public attitudes, lack of prosecution of domestic violence cases, and departmental priorities, a

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number of factors influenced law enforcement officers to make no arrest in a majority of cases. It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior in the home is criminal behavior and will not be tolerated. Arrests of domestic violence offenders are encouraged if there is probable cause that an offense has been committed (P.C. 13701, as amended, effective 1/1/96). The following factors, for example, should not be used to avoid making an arrest:

- A. Marital status or domestic relationship of suspect and victim.
- B. Whether or not the suspect lives on the premises with the victim.
- C. Existence of lack of restraining/protective orders.
- D. Complainant's preference that an arrest be made or not.
- E. Occupation, community status, and/or potential financial consequences of arrest.
- F. Complainant's history of prior complaints.
- G. Verbal assurances that violence will cease.
- H. Complainant's emotional state.
- I. Non-visible injuries.
- J. Location of the incident (public/private).
- K. Speculation that complainant may not follow through with the prosecution, or
- L. That the case may not result in a conviction.
- M. Assumptions that violence is more acceptable in certain cultures.
- N. Language abilities or barriers and/or immigration status (lack of English language abilities on the part of the victim).
- O. Sexual preference or orientation of the parties.

II. FELONY ARREST

Guideline 2 - MAKE AN ARREST WHEN THERE IS REASONABLE CAUSE TO BELIEVE THAT A FELONY HAS OCCURRED.

III. MISDEMEANOR ARREST

Guideline 3 - MAKE AN ARREST WHEN THERE IS REASONABLE CAUSE TO BELIEVE THAT A MISDEMEANOR HAS OCCURRED IN THE OFFICER'S PRESENCE OR THERE IS PROBABLE CAUSE TO BELIEVE THAT A MISDEMEANOR VIOLATION OF PENAL CODE SECTION 273.6 HAS OCCURRED.

- A. Legislation effective January 1, 1994, allows peace officers, in their discretion and within the policy of their department, to make a probable cause arrest for a misdemeanor Penal Code Section 273.6 violation occurring outside the presence of an officer. Effective July 1, 1996, arrest policies shall require the arrest of an offender, absent exigent circumstances, if there is probable cause to believe that a protective order has been violated. (P.C. 13701)
- B. In any case in which a person is arrested for a misdemeanor violation of a protective court order involving domestic violence, the person shall not be taken before a magistrate instead of being released on a citation, unless the arresting officer determines there is not a reasonable likelihood that the offense will continue or resume or that the safety of persons or property would be imminently endangered by release of the person arrested. (P.C. 853.6)
- C. Officers considering releasing the suspect on a citation shall evaluate the likelihood of a continuing offense which is one of the statutory conditions under which a field release is not appropriate. Any of the following may support the likelihood of a continuing offense:
1. The suspect has a prior history of arrests or citations involving domestic violence.
 2. The suspect is violating a criminal court issued Stay-Away Order.
 3. The suspect has previously violated, or is currently violating, valid restraining/protective orders.
 4. The suspect has a prior history of other assaultive behavior (e.g., arrest/convictions for battery or aggravated assaults).
 5. Statements of the victim or witnesses that the suspect has a history of physical abuse.
 6. Statements of the victim or witnesses expressing fear of retaliation or further violence should the suspect be released.
 7. Information about the suspect's alcohol or drug abuse, access to weapons,

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suicide threats or attempts, threats of kidnapping family members, or history of mental illness.

IV. DUAL ARRESTS

Dual arrests shall be discouraged but not prohibited. (P.C. 13701, as amended effective 7/1/96). Peace officers shall make reasonable efforts to identify and arrest only the primary aggressor. The primary aggressor is the person determined to be the most significant, rather than the first aggressor. In identifying the primary aggressor, the officer shall consider:

- A. The intent of the law to protect victims of domestic violence from continuing abuse.
- B. The threats creating fear of physical injury.
- C. The history of domestic violence between the persons involved.
- D. Whether either person involved acted in self-defense.

These same considerations shall apply in situations where mutual protective orders have been issued. (P.C. 836(c)(3))

V. PRIVATE PERSON'S ARREST (CITIZEN'S)

Guideline 4 - INFORM THE VICTIM OF THE RIGHT AS WELL AS HOW TO SAFELY EXECUTE THE MAKING OF A PRIVATE PERSON'S ARREST. WHEN A CRIME HAS BEEN COMMITTED OUTSIDE THE OFFICER'S PRESENCE WHICH DOES NOT MEET THE REQUIREMENTS FOR A FELONY ARREST, OR A MISDEMEANOR ARREST FOR A VIOLATION OF A PROTECTIVE ORDER. WHENEVER POSSIBLE, SUCH DISCUSSION SHALL BE HELD OUT OF THE PRESENCE OF THE SUSPECT. (EFFECTIVE JULY 1, 1996, OFFICER SHALL ARREST WHERE THERE IS PROBABLE CAUSE THAT A PROTECTIVE ORDER HAS BEEN VIOLATED.) (P.C. 13701 (b))

Guideline 5 - ACCEPT A PRIVATE PERSON'S ARREST. OFFICERS SHOULD NOT DISSUADE VICTIMS FROM MAKING A LAWFUL PRIVATE PERSON'S ARREST.

VI. REPORTING

Guideline 6 - WRITE A REPORT IN ALL INCIDENTS OF DOMESTIC VIOLENCE.

THE REPORT SHALL BE IDENTIFIED ON ITS FACE AS A DOMESTIC VIOLENCE INCIDENT AND BE RETRIEVABLE. (THIS DATA MUST BE REPORTED MONTHLY TO THE DEPARTMENT OF JUSTICE, 13730(A) OF THE PENAL CODE.)

Guideline 7 - IDENTIFY, IN THE REPORT, IF WEAPONS WERE INVOLVED. (PENAL CODE SECTION 13730(A)). (THIS INFORMATION, INCLUDING NUMBER AND TYPE OF WEAPONS, MUST BE REPORTED TO THE DEPARTMENT OF JUSTICE AND IS PUBLISHED ANNUALLY.)

Guideline 8 - PROVIDE THE VICTIM WITH THE CASE NUMBER OF THE REPORT OR, IF NOT IMMEDIATELY AVAILABLE, EXPLAIN TO THE VICTIM HOW THE NUMBER MAY BE OBTAINED. (PENAL CODE SECTION 13701 (H))

VII. RESTRAINING/PROTECTIVE ORDERS

There are different types of restraining/protective orders issued by courts in domestic violence situations. Penal Code Section 13710 requires law enforcement agencies to maintain a complete and systematic record of protective orders with respect to domestic violence incidents, restraining/protective orders, and proofs of service in effect. This section also requires that the systematic record shall be used to inform law enforcement officers responding to domestic violence calls of the existence, terms, and effective dates of protective orders in effect.

The following are three types of restraining/protective orders:

- A. Emergency Protective Orders are obtained by a peace officer from superior court by phone.
- B. ~~Civil Court~~ Restraining Orders are obtained by the victim from various departments within the civil court.
- C. Criminal Protective/Stay-Away Orders ~~pursuant to PC 136.2~~ are issued by the criminal court.

All three of these protective orders are enforceable in any county, regardless of where issued. (Family Code 6381) The Federal Violence Against Women Act requires states to enforce restraining orders issued in other states. (H.R. 3355, 103d Cong., 2d sess. 1994). These orders remain valid regardless of the actions of the protected person. For example, if the protected person allows the restrained party back into a residence, the order still remains valid. (P.C. 13711(c))

Guideline 9 - REQUEST EMERGENCY PROTECTIVE ORDERS WHEN APPROPRIATE.

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Family Code Section 6241 requires that at least one judge, commissioner, or referee be reasonably available to orally issue, by phone or otherwise, an ex parte Emergency Protective Order when a law enforcement officer asserts reasonable grounds to believe that a person is in immediate and present danger of domestic violence or when a child is in immediate or present danger of abuse from a household member, as defined by the Family Code. Such an order may also exclude the suspect from the premises and determine temporary custody of minor children.

A. Ascertain Need for Emergency Protective Order

1. When the officer has reasonable grounds to believe a person is in immediate and present danger of domestic violence, or a child is in immediate and present danger of abuse by a family or household member, the officer should inform the complainant as to the availability of Emergency Protective Orders. Regardless of the victim's preference, the officer may request an ex parte Emergency Protective Order from the on-call judge.
2. Officers should make this determination based on the complainant's allegations of a recent incident of abuse or threat of abuse.
3. The officer may request an Emergency Protective Order whether or not the suspect is present or has been arrested.
4. The following are examples of situations in which requesting an Emergency Protective Order may be appropriate
 - a. The suspect is being arrested for a charge related to a domestic violence incident.
 - b. The suspect has a history of domestic violence.
 - c. The victim expresses fear of retaliation or further violence.
 - d. Threats of serious danger have been made to the victim or to the victim's family.

B. Request Emergency Protective Order

1. Officer shall contact the judge, commissioner, or referee designated to be on-call to issue Emergency Protective Orders by telephone or otherwise and assert grounds for the belief that the order is appropriate. The above should be accomplished by following established protocol.
2. Upon oral issuance of the order by the on-call judge, the officer requesting

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the order shall reduce it to writing, using the Judicial Council form provided, and sign the order.

C. Issued Orders

1. The officer shall serve a copy of the emergency order on the restrained party, if the party can be reasonably located.
2. The officer shall give a copy of the emergency order to the protected party.
3. The officer who requested the emergency order, while on duty, shall carry a copy of the order. (Family Code 6273)
4. A copy of the emergency order shall be filed with the court as soon as practical after issuance.
5. An Emergency Protective Order is valid for five court days after the day of issuance, but never longer than seven calendar days following the day of issuance.

D. Enforcement Procedures

Where a violation of an Emergency Order has occurred, arrest in accordance with Guideline 10, Section B.

E. Officer Immunity

A law enforcement officer who acts in good faith to enforce an Emergency Protective Order is not civilly or criminally liable. (Family Code Section 6272 (b))

Guideline 10 - VERIFY AND ENFORCE RESTRAINING/PROTECTIVE ORDERS.

Penal Code Section 13710 requires law enforcement agencies to maintain a complete and systematic record of all protective orders with respect to domestic violence incidents, restraining/protective orders, and proofs of service in effect. This section also requires that the systematic record shall be used to inform law enforcement officers responding to domestic violence calls of the existence, terms, and effective dates of protective orders in effect.

A. Verification of Restraining/Protective Orders

Whenever a complainant advises an officer of the existence of a restraining/protective order, the officer ~~should~~ shall ascertain:

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1. Whether a restraining/protective order is on file with the department or whether complainant has certified copy of the restraining/protective order in their possession, or whether the order can be verified through the Department of Justice Domestic Violence Restraining Order System (DVROS). (Family Code 6380, 6381, 6383)
2. Whether a restraining/protective order is still valid as to duration/time.
 - a. If there is no expiration date on ~~the~~ a civil protective order, the order is valid three years from the date of issuance, with the exception of permanent orders issued pursuant to a divorce, which never expire.
 - b. An Emergency Protective Order is valid for five court days after the day of issuance, but never longer than seven calendar days following the day of issuance.
 - c. The duration of Criminal Protective/Stay-Away orders varies with each order.

B. Arrest Criteria and Enforcement Procedures

1. A violation of a restraining/protective order is a misdemeanor under Penal Code Sections 166 and 273.6(a) and may be a felony, under Penal Code Sections 273.6(d), 646.9 or 136. Make an arrest when there is reasonable cause to believe the subject of the restraining/protective order has violated the order and any of the following conditions is met (P.C. 13701):
 - a. The existence of the order and proof of service on the suspect has been verified by the officer.
 - b. The complainant produces a valid copy of the order bearing a file stamp of a court and a proof of service on the subject.
 - c. The existence of the order has been verified by the officer; no proof of service is required if the order reflects that the suspect was personally present in court when the order was made.
 - d. The existence of the order has been verified and there is proof that the suspect has previously been admonished or served a copy of the order.
2. When the officer verifies that a restraining/protective order exists but cannot verify proof of service or prior knowledge of order by suspect, the officer should:

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- a. Inform the subject of the terms of the order.
 - b. The Monterey Police Department Notice of Service of Domestic Violence Restraining Order form shall be completed and a copy delivered to the restrained person.
 - c. Admonish the subject of the order, that the subject is now on notice and that the violation of the order will result in arrest. If the subject continues to violate the order after being advised of the terms, an arrest should be made. Oral notification to the respondent of the terms of the order shall be sufficient notice for enforcement of P.C.136.2, 273.6, and 12021(g). (Family Code 6383(e))
 - d. If the subject complies after admonishment of the terms, the officer shall make a retrievable report pursuant to Penal Code Section 13730 (c) showing the subject was admonished/advised of the terms of the order, the specific terms of the order subject was advised about, the name of the admonishing officer, time and date. The original of the M.P.D. Notice of Service of Domestic Violence Restraining Order form shall be attached and accompany the report.
 - e. The reporting officer shall immediately contact Records personnel, provide them with a copy of the Notice of Service form, and request that the DVROS be updated with the service information.
 - f. The department's copy of the restraining/protective order will be updated to reflect the admonishment information listed above. The notice or service shall immediately be transmitted to the California Department of Justice Domestic Violence Restraining Order System.
 - g. At the request of the protected party, the officer shall comply with all of the above.
3. In the event the subject has left the scene of the incident, an investigation would be made to determine if a crime has been committed. Penal Code Sections 13730 (c) and 13701 (h) require that a retrievable report shall be made and complainant shall be advised of the follow-up criminal procedure and case number of the report.

C. Order Not Verifiable

1. When the victim is not in possession of the restraining/protective order and/or, in the case of computer error, officers may not be able to confirm the order's validity.

- a. Penal Code Section 13730 (c) and 13701 (h) requires that an officer shall write a report, give the victim the police report number and direct the victim to contact the appropriate department unit for follow-up information.
- b. When an order is not verifiable through the verification procedures, officers shall advise the victim of the right to make a private person's arrest for the violation of the restraining/protective order.

Guideline 11 - VERIFY AND ENFORCE CRIMINAL PROTECTIVE/STAY-AWAY ORDERS.

A. Verification of Stay-Away Orders

1. A stay-away order is issued in a criminal case where the probability of victim intimidation exists and violation of such is a misdemeanor under Penal Code Section 166. In domestic violence incidents where a person advises an officer that a Criminal Protective/Stay-Away Order has been issued, the officer should attempt to ascertain the terms and validity of the order.
 - a. Request the victim show a copy of the order. Verify, through the department, that the subject is under the court's jurisdiction, or
 - b. Verify, through the department, that a Criminal Protective/Stay-Away Order has been issued against the subject, or
 - c. Effective July 1, 1996, verify through the California Department of Justice Domestic Violence Restraining Order System.

B. Arrest Criteria and Enforcement Procedures

1. When the order has been verified, officers shall effect an arrest if the subject has violated any terms of the order. The report should note the specific violations of the order, and the victim shall be given the police report number for reference pursuant to Penal Code Section 13701 (h).
2. A violation of the order is a violation of Penal Code Section 166. This violation can be added to other charges such as assault or battery.
3. An act of victim intimidation relating to the court proceedings is a violation of Penal Code Section 136 et seq. Examples of intimidation include:
 - a. Attempting to prevent or dissuade a victim from attending or giving testimony at any proceeding is a misdemeanor. (P.C. 136.1 (a), (b))

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- b. Attempting to prevent or dissuade a victim from attending or giving testimony by using force or by expressing or implying threat of force or violence related to the court proceeding is a felony. (P.C. 136.1(c))

C. Order Not Verifiable

When the victim is not in possession of the Criminal Protective/Stay-Away Order and/or, in cases of computer error, officers may not be able to confirm the order's validity.

1. Penal Code Section 13730(c) requires that officers shall write a report, give the victim the police report number, and direct the victim to contact the appropriate department unit for follow-up information.
2. When an order is not verifiable through the verification procedures, officers should advise the victim of the right to make a private person's arrest for the violation of the restraining/protective order.

VII. TENANCY

Guideline 12 - REQUEST A PERSON WHO IS NOT IN LAWFUL POSSESSION OF THE PREMISES TO LEAVE THE PREMISES WHEN: (1) THE COMPLAINANT IS IN LAWFUL POSSESSION OF THE PREMISES, AND (2) THE COMPLAINANT HAS REQUESTED THAT THE PERSON LEAVE THE PREMISES.

VIII. VICTIM ASSISTANCE

Guideline 13 - ASSIST IN OBTAINING APPROPRIATE MEDICAL ATTENTION IF A COMPLAINANT CLAIMS INJURY, WHETHER VISIBLE OR NOT.

Guideline 14 - ASSIST IN MAKING ARRANGEMENTS TO TRANSPORT THE VICTIM TO AN ALTERNATE SHELTER IF THE VICTIM EXPRESSES A CONCERN FOR SAFETY OR THE OFFICER DETERMINES A NEED EXISTS.

Guideline 15 - STAND BY FOR A REASONABLE AMOUNT OF TIME WHEN A COMPLAINANT OR A SUSPECT REQUESTS LAW ENFORCEMENT ASSISTANCE WHILE REMOVING ESSENTIAL ITEMS OF PERSONAL PROPERTY.

Guideline 16 - ASSIST VICTIMS IN PURSUING CRIMINAL OPTION, SUCH AS GIVING THE VICTIM THE REPORT NUMBER AND DIRECTING THE VICTIM TO THE PROPER INVESTIGATION UNIT. (P.C. 13701 (c) (8))

Guideline 17 - PROVIDE THE FOLLOWING TO THE VICTIM IN WRITING:

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- A. For further information about a shelter you may contact: _____
- B. For information about other services in the community, you may contact: _____
- C. You have the right to ask the District Attorney ~~or City Attorney~~ to file a Criminal Complaint.
- D. You have the right to go to the Superior Court and file a petition requesting any of the following orders for relief at no cost:
 - 1. An order restraining the attacker from abusing the victim and other family members.
 - 2. An order directing the attacker to leave the household.
 - 3. An order preventing the attacker from entering the residence, school, business, or place of employment of the victim.
 - 4. An order awarding the victim or the other parent custody of or visitation with a minor child or children.
 - 5. An order restraining the attacker from molesting or interfering with minor children in the custody of the victim.
 - 6. An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so.
 - 7. An order directing the defendant to make specific debt payments coming due while the order is in effect. (If the parties are not married, the court can issue orders as to liens and encumbrances that come due while the order is in effect. This is not meant to include unsecured consumer debt.)
 - 8. An order directing that either or both parties participate in counseling.
 - 9. An order directing the suspect to batterers' counseling.
 - 10. An order for restitution.
- E. You have the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings, and other expenses for injuries sustained and damage to property and any other related expenses incurred by the victim or any agency that shelters the victim.
- F. A statement informing the victim that, despite the alleged abusers' arrest, the suspect may be released at any time.

- G. A "Victims of Domestic Violence" card which shall include, but is not limited to:
1. The names and locations of rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.
 2. A simple statement on the proper procedures for a victim to follow after a sexual assault.
 3. A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.

IX. SEIZURE OF FIREARMS

Guideline 18 - SEIZE AND TAKE TEMPORARY CUSTODY OF FIREARMS OR OTHER DEADLY WEAPONS IN PLAIN SIGHT OR OBTAINED PURSUANT TO A CONSENT SEARCH WHEN THERE IS A THREAT OF VIOLENCE OR A PHYSICAL ASSAULT AT THE SCENE OF A ~~DOMESTIC~~ FAMILY VIOLENCE INCIDENT. (PENAL CODE 12028.5)

- A. This provision of law is permissive and allows the officer discretion.
- B. No firearm seized pursuant to this section shall be held less than 48 hours.
- C. Provide person from whom the firearm is taken a receipt describing the firearm and stating where and when the firearm can be recovered.
- D. If the seized firearm is not to be used as evidence in a criminal proceeding resulting from the domestic violence incident, or was not illegally possessed, it shall be made available for return no later than 72 hours after the seizure. One exception to the return of a firearm within 72 hours is found in P.C. 12028.5 (e) which authorizes the department to initiate a petition in superior Court to prohibit the release of a weapon where law enforcement has reasonable cause to believe that the return of the firearm or other deadly weapon would be likely to result in endangering the victim or person reporting the assault or threat. The agency must notify the owner of the weapon within 10 days of the seizure and initiate the petition.
- E. Check on court order ~~requesting~~ requiring removal of weapon or, prior to conviction of any crime, prohibiting possession and/or ownership of a firearm prior to release. (P.C. 12021(g))

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X. OFFICER SAFETY

Guideline 19 - EXERCISE REASONABLE CARE FOR THE SAFETY OF OFFICERS AND PARTIES INVOLVED. NO PROVISION OF THIS GUIDELINE SHALL SUPERSEDE THAT RESPONSIBILITY.



Floyd D. Sanderson, Police Chief

ORIGINAL: January 1986
REVISED: January 1986
REVISED: October 1988
REVISED: June 1989
REVISED: July 1996

MONTEREY POLICE DEPARTMENT

NOTICE OF SERVICE OF DOMESTIC VIOLENCE RESTRAINING ORDER (DVRO)

LOCATION _____

C.R.# _____ DATE/TIME _____

OFFICER _____ OFCR. ID# _____

Person Notified/Served

Name _____ Phone _____

Address _____ D.O.B. _____

City _____ Male / Female (circle)

Protected Person(s)

Issuance Date of DVRO

Expiration Date of DVRO

Court Information (Department/Division Numbers)

Telephone Number of Court

Court Advisement (Copy DVRO)

_____ Yes / No (circle)

Terms and Conditions of DVRO (including stay-away, no contact, and residency exclusion)

Signature of Person Served

_____ Refused (circle)

- G. A "Victims of Domestic Violence" card which shall include, but is not limited to:
1. The names and locations of rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.
 2. A simple statement on the proper procedures for a victim to follow after a sexual assault.
 3. A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.

IX. SEIZURE OF FIREARMS

Guideline 18 - SEIZE AND TAKE TEMPORARY CUSTODY OF FIREARMS OR OTHER DEADLY WEAPONS IN PLAIN SIGHT OR OBTAINED PURSUANT TO A CONSENT SEARCH WHEN THERE IS A THREAT OF VIOLENCE OR A PHYSICAL ASSAULT AT THE SCENE OF A DOMESTIC FAMILY VIOLENCE INCIDENT. (PENAL CODE 12028.5)

- A. This provision of law is permissive and allows the officer discretion.
- B. No firearm seized pursuant to this section shall be held less than 48 hours.
- C. Provide person from whom the firearm is taken a receipt describing the firearm and stating where and when the firearm can be recovered.
- D. If the seized firearm is not to be used as evidence in a criminal proceeding resulting from the domestic violence incident, or was not illegally possessed, it shall be made available for return no later than 72 hours after the seizure. One exception to the return of a firearm within 72 hours is found in P.C. 12028.5 (e) which authorizes the department to initiate a petition in superior Court to prohibit the release of a weapon where law enforcement has reasonable cause to believe that the return of the firearm or other deadly weapon would be likely to result in endangering the victim or person reporting the assault or threat. The agency must notify the owner of the weapon within 10 days of the seizure and initiate the petition.
- E. Check on court order requesting requiring removal of weapon or, prior to conviction of any crime, prohibiting possession and/or ownership of a firearm prior to release. (P.C. 12021(g))

X. OFFICER SAFETY

Guideline 19 - EXERCISE REASONABLE CARE FOR THE SAFETY OF OFFICERS AND PARTIES INVOLVED. NO PROVISION OF THIS GUIDELINE SHALL SUPERSEDE THAT RESPONSIBILITY.



Floyd D. Sanderson, Police Chief

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REVISED: July 1996

MONTEREY POLICE DEPARTMENT

NOTICE OF SERVICE OF DOMESTIC VIOLENCE RESTRAINING ORDER (DVRO)

LOCATION _____

C.R.# _____ DATE/TIME _____

OFFICER _____ OFCR. ID# _____

Person Notified/Served

Name _____ Phone _____

Address _____ D.O.B. _____

City _____ Male / Female (circle)

Protected Person(s)

Issuance Date of DVRO

Expiration Date of DVRO

Court Information (Department/Division Numbers)

Telephone Number of Court

Court Advisement (Copy DVRO)

_____ Yes / No (circle)

Terms and Conditions of DVRO (including stay-away, no contact, and residency exclusion)

Signature of Person Served

Refused (circle)



**Information to our
citizens regarding
Domestic Violence**

TO OUR MONTEREY RESIDENTS

If you are a victim of domestic violence, we want to help you! The Monterey Police Department is committed to enforcing laws that will reduce domestic violence and provide some protections for victims if it occurs.

Domestic violence is a growing problem in our society. Hundreds of thousands of citizens are harmed; in this case not by strangers, but by those they trust and love. They are not usually victimized on the street nor in the work place, but in their own homes. Most experts agree that people who commit violence against loved ones have learned that behavior when they were growing up. Accordingly, to tolerate family violence is to teach children that family violence is acceptable behavior. They learn to treat their family the same way when they are grown up.

The reasons for family violence are very complicated in causes, and so are the solutions. To be hurt by a husband or wife, a parent, a trusted adult or your own child carries with it a particular agony. Victims are confused with feelings of fear, loyalty, love, guilt and shame. They are torn between the desire to protect and help a loved one, and their responsibility to their own safety or others in the family. Anyone living in a violent home experiences a loss—the one place on earth that should be safe and secure has become a place of danger.

Our attitude is that violent behavior in the home is criminal behavior and must be treated as a crime. Our ultimate purpose is to stop violence through enforcement of the laws. This brochure is designed to provide victims with information designed to stop domestic violence. Use it if necessary, and never hesitate to call the Monterey Police Department for help. If you are in danger of, or have just become a victim of domestic violence, call 9-1-1 at once.

Floyd D. Sanderson
Police Chief
Monterey Police Department

DOMESTIC VIOLENCE

WHAT WILL THE POLICE DO?

First, they will stop any violence taking place. Second, they will gather all information on the situation to decide what should be done next. Depending on the circumstances, the Police may make an arrest, a citizen's arrest may be made, a court order may be enforced, or other alternatives may be considered.

WHEN CAN THE POLICE MAKE AN ARREST?

A Police Officer can arrest for a felony (serious) crime that has occurred — whether in his/her presence or not in his/her presence. An Officer can arrest for a misdemeanor (less serious) crime that occurs in his/her presence. If the misdemeanor crime does not occur in his/her presence, the Officer cannot arrest unless the victim or a witness makes a citizen's arrest.

WHAT KIND OF A CRIME OCCURS WHEN A PERSON IS SLAPPED OR HIT?

Generally, this is a misdemeanor crime and would require the victim to make a citizen's arrest. It could be a felony. If so, the Officer can make the arrest if the slap or hit results in a traumatic condition. (Traumatic condition means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.) The person arrested may be released at any time.

HOW IS A CITIZEN'S ARREST MADE?

DOES THE VICTIM HAVE TO PHYSICALLY MAKE THE ARREST?

All the Victim has to do is to sign a citizen's arrest form the Officer has. The Officer is then able to take the person into custody. The person arrested, once booked, may post bail; or, if determined to be appropriate, may be cited and released. The Officer will then make a report, which will be taken to the District Attorney's (D.A.'s) Office. The D.A. will review it to determine whether or not there is sufficient evidence to go to court. If there is, the case will be tried in front of a judge.

The Victim/Witness Assistance Program is available to answer any questions during the entire court proceeding — 647-7772

WHAT IS A RESTRAINING ORDER?

It is a court order restricting a person's actions. If you have been threatened, harassed, abused or assaulted (pushed and struck), you can get a restraining order. The YWCA —649-0834, Monterey County Legal Services Corporation, 375 - 0505, or a private attorney can assist you in obtaining an order.

WHAT DO I DO IF THE PERSON DOES WHAT THE RESTRAINING ORDER SAYS THEY CANNOT DO?

Call the Police. If the violator is aware of the order and has violated it, an arrest can be made. You must have a copy of the order bearing a file stamp of the court and showing proof of service on the subject (that the violator was given a copy) available for the Officer to review (the person who helped you get the order can explain what the file stamp and proof of service is).

ARE THERE ANY OTHER "ORDERS" I CAN GET TO STOP DOMESTIC VIOLENCE?

Yes, there are. You can go to the Superior Court, in the Courthouse at 1200 Aguajito Road, Monterey, and go to the County Clerk's Office on the 3rd floor, then to the Civil Section and file a petition requesting any of the following orders for relief. After reviewing the information, a judge may:

- a. Order restraining the person from hurting you and any other family members.
- b. An order preventing the person from entering your home, school, business or place of work.
- c. An order directing the person to leave the house.
- d. An order awarding you or the other parent custody of or visitation with a minor child or children.
- e. An order restraining the person from molesting or interfering with minor children in your custody.
- f. An order directing the person not granted custody to pay support of minor children, if that person has a legal obligation to do so.
9. An order directing the person to make specified debt payments coming due while the order is in effect.
- h. An order directing that the person and/or you participate in counseling.

CAN I SUE THE PERSON WHO COMMITTED THE "DOMESTIC VIOLENCE"?

Yes, you have the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings and other expenses for injuries caused and damage to property and any other related expenses paid by you or any agency that shelters you.

WHAT CAN I DO IF THE POLICE DO NOT MAKE AN ARREST AND I FEEL THEY SHOULD HAVE?

You have the right to ask the District Attorney to file a complaint, telephone 755-5070.

ARE THERE OTHER AGENCIES THAT CAN HELP ME WITH DOMESTIC VIOLENCE SITUATIONS?

Yes there are. Five agencies are listed below.

Victim/Witness Assistance Program: 8 a.m.-5 p.m. weekdays 647-7772. Provides assistance with your case, court proceedings, return of property, restitution, referral to community agencies and state victim compensation program. For information about other services in the community, where available, you may contact someone at this program who will advise you.

Rape Crisis Center: 24-hour service, 375-4357



YWCA, Crisis Line & Shelter: 24-hour service, 372-6300

Assistance with domestic violence problems, including family emergency shelter service, counseling and presentations. For further information about a shelter, you may contact this agency.

Suicide Prevention Center: 24-hour service, 649-8008

Family Resource Center: 394-4622

Assistance for child abuse/ neglect and family group counseling.

WHAT IS THE VICTIM'S COMPENSATION PROGRAM?

The State of California has funds to reimburse residents who suffer injuries from a crime of violence that results in financial loss. Call the "Victim/Witness Assistance Program" for detailed assistance. The District Attorney's Office handles the program, 755 - 5070

You may apply if you are the victim of a crime of violence or if you are legally dependent on the victim for support. If the victim is deceased, anyone who pays the burial or medical expenses may file. If the victim is a minor, the parent or guardian of the victim must apply for the child.

VICTIMS OF DOMESTIC VIOLENCE**

** To be given to the victim of Domestic Violence in which there has been an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 of the California Penal Code.

1. Rape Crisis Center

24-hour service, 375-4357

Administrative Offices, 373-3955

173 Sargent Court

Monterey, California 93940

2. Proper Procedures Following Sexual Assault.

Get to (or stay at) a safe place.

Call 9-1-1

Do not shower, bathe, wash your hands, brush your teeth, or use the toilet.

Do not change or destroy your clothing or bedding.

Get medical attention as soon as possible.

Contact a friend or family member you trust for support.

Call your local rape crisis hotline for support & information.

REMEMBER

Members of the Monterey Police Department care about your welfare.

You are not alone.

Sexual assault by a person known to you - including sexual assault by your spouse - is a crime.